



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CERIOUS McCRAY,

Petitioner,

v.

ADRIAN H. ANDERSON,

Sheriff of Dutchess County Jail,

Respondent.
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ORDER

20 CV 2247 (VB) (LMS)

Petitioner, who is proceeding pro se and in forma pauperis, commenced this action on March 21, 2020, by filing a petition for a writ of habeas corpus. (Doc. #2). By Order dated April 14, 2020, the Court instructed the Clerk of Court to serve respondent with the petition and ordered respondent to answer the petition within sixty days. (Doc. #5).

Sixty days from the date of the Court's April 14 Order was June 15, 2020 (accounting for the fact that the sixtieth day fell on a Saturday). On June 11, 2020, respondent timely answered the petition, and served petitioner by mail with the answer and supporting papers. (See Docs. ##9–11).

On June 18, 2020, the Court received from petitioner a motion for default judgment and a motion for a hearing on default judgment, both dated June 14, 2020 (which was prior to the expiration of the sixty days). (Docs. ##12–13). In his motion for default judgment, petitioner claims respondent "has not appeared in this action." (Doc. #12). However, respondent clearly has appeared in this action and timely answered the petition. It seems petitioner submitted his motions prior to receiving by mail respondent's answer to the petition.

Accordingly, petitioner's motions for default judgment and for a hearing are DENIED as entirely without merit.

Petitioner is reminded that he may file and serve reply papers, if any, within thirty days from the date he was served with respondent's answer. (See Doc. #5). Accordingly, petitioner's reply, if any, must be filed and served by July 13, 2020.

This case remains referred to the magistrate judge for consideration of petitioner's habeas corpus petition.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will mail a copy of this Order to petitioner at the address on the docket.

The Clerk is instructed to terminate the motions. (Docs. ##12, 13).

Dated: June 22, 2020
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge